

IN THE HIGH COURT OF JUDICATURE  
ANDHRA PRADESH  
AT HYDERABAD

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA  
RAO

WRIT PETITION NO :15438 of 1998

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Dated: 8<sup>th</sup> June 2007.

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Between:

The Depot Manager, A.P.S.R.T.C., Mushirabad,  
Hyderabad.

..... PETITIONER

AND

Syed Ghouse S/o Syed Ibrahim, A.P.S.R.T.C. Bus Driver,  
E.No.104318, House No.13-44, Samastan  
Narayanapuram (PO), Nalgonda District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA  
RAO

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W.P.NO.15438 OF 1998

ORAL ORDER:

This writ petition has been instituted calling in question the correctness of the order passed on 20-02-1998, by the Labour Court, Hyderabad in M.P.No.24 of 1996, which was instituted by the 1<sup>st</sup> respondent-workman herein in terms of Section 33-C (2) of the Industrial Disputes Act, 1947.

The 1<sup>st</sup> respondent-workman while working as a driver with the Andhra Pradesh State Road Transport Corporation (for short 'the Corporation') has been subjected to disciplinary enquiry and had been removed from service by an order passed on 08-12-1986. That gave rise to an industrial dispute and the 1<sup>st</sup> respondent-workman instituted I.D.No.87 of 1993 for redressal thereof. By an award passed on 27-09-1993, the Labour Court ordered for reinstatement of the workman back into service without backwages and without continuity of service. The said award has been published on 31-01-1994.

It is the case of the writ petitioner that an order has been passed on 15-03-1994 directing reinstatement of the 1<sup>st</sup> respondent-workman into service. It was followed up by another order dated 17-03-1994. The writ petitioner has also passed orders on 13-04-1994 and a notice was also got published in an Urdu daily

newspaper by name 'Rehnuma-e-Deccan' on 04-07-1994 directing the 1<sup>st</sup> respondent-workman to report for duty in pursuance of the award passed in I.D.No.87 of 1993. Since there was no response from the 1<sup>st</sup> respondent-workman, he could not be reinstated into service, but however, for the first time the 1<sup>st</sup> respondent-workman seems to have sent a notice on

15-12-1995, demanding for his reinstatement into service pursuant to the award passed in his favour in I.D.No.87 of 1993. He also followed it up with another representation dated 22-01-1996. Since there is no response from the Depot Manager to his representations, he instituted M.P.No.24 of 1996 pointing out that since the award in I.D.No.87 of 1993 was published on 31-01-1994, it became incumbent for him to be reinstated latest by 01-03-1994 and hence, he claimed salary and allowances for the period from 01-03-1994 up to 13-07-1996, i.e., the date on which he instituted the M.P.No.24 of 1996. In all, the

1<sup>st</sup> respondent-workman claimed a sum of Rs.72,277-50 ps. This M.P.No.24 of 1996 has been contested by the management of the Corporation by pointing out that they are not at fault in not complying with the award passed in I.D.No.87 of 1993 and it is, in fact, the workman, who was not responding to their call of reinstatement and that the various efforts made by the Corporation to reach him out have failed and hence, they got the notice also published

in an Urdu daily newspaper 'Rehnuma-e-Deccan' on 04-07-1994 and that they have made all necessary efforts to secure implementation of the award passed in I.D.No.87 of 1993 and therefore, they are not to be faulted.

It will be appropriate to notice at this stage that the Labour Court has recorded a finding that the

1<sup>st</sup> respondent-workman, who is the petitioner in M.P.No.24 of 1996, is not serious in pursuing employment with the Corporation. It had also recorded a finding of fact that no earnest efforts are made by the petitioner therein, to secure implementation of the award passed in I.D.No.87 of 1993. Therefore, it has found no justification, whatsoever, to award an amount of Rs.72,277-50 ps claimed by the

1<sup>st</sup> respondent-workman. Instead, the Labour Court had considered it appropriate to order for payment of a consolidated amount of Rs.25,000/-. It is this order directing the petitioner to pay a sum of Rs.25,000/-, which is questioned in this writ petition.

The learned Standing Counsel for the Corporation would urge that the award passed in I.D.No.87 of 1993 is to the effect that the 1<sup>st</sup> respondent-workman is to be reinstated without any backwages and without any attendant benefits arising out of continuity of service and, therefore, there is no money, which is due to be paid to the workman and hence, the M.P.No.24 of 1996 instituted

by him is not maintainable at all.

Section 33-C(2) of the Industrial Disputes Act, 1947, reads as under.

“(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government [within a period not exceeding three months];

[Provided that where the Presiding Officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]”

It is manifestly clear that wherever a workman is entitled to receive from his employer any ascertained money or benefit, which is capable of being computed in terms of money, such a dispute or question, can be decided by the Labour Court.

It is, therefore, essential for an application under Section 33-C(2) of the Act, to be maintained, that there should be an entitlement on the part of the workman, to receive from his employer any specified money or any benefit, which is capable of being computed in terms of money.

Unfortunately, in the present case, the award

passed in I.D.No.87 of 1993, had specifically ordered that the

1<sup>st</sup> respondent-workman is not entitled to be paid any backwages or any benefit arising out of continuity of service. He was, merely, ordered to be reinstated. Therefore, there is no ascertained claim of money, which is held to be payable to the workman concerned. In the absence of any such ascertained money due to be paid to the 1<sup>st</sup> respondent-workman, application No.24 of 1996 filed by him, ought not to have been entertained at all. If the 1<sup>st</sup> respondent-workman has not been reinstated by the management of the Corporation pursuant to the award passed in I.D.No.87 of 1993, the remedy is altogether different. He is entitled to enforce the award and get reinstated, but he cannot convert the supposed failure on the part of the employer to reinstate him into a money claim and maintain application under Section –33 C (2) of the Act.

Therefore, the application made by the 1<sup>st</sup> respondent-workman in M.P.No.24 of 1996 is not maintainable and ought to have been dismissed by the Labour Court instead of allowing payment of a consolidated sum of Rs.25,000/-.

Even otherwise in the face of the findings recorded by the Labour Court that the 1<sup>st</sup> respondent-workman is not serious with his employment with the Corporation and that he is not earnest in making efforts to secure the

award passed in I.D.No.87 of 1993, implemented, and also that there was enormous delay on his part even in soliciting implementation of the award passed on 27-09-1993 by submitting a representation for the first time on 17-12-1995, which is more than two years after the award is passed, the Labour Court ought not to have ordered payment of Rs.25,000/- in favour of such an individual. The laxity and lack of seriousness or earnestness on the part of the 1<sup>st</sup> respondent-workman, cannot be covered with a premium by ordering the employer to pay a sum of Rs.25,000/-. Further no reasons are also assigned as to how this amount has been worked out.

I, therefore, do not find any justification, whatsoever, to uphold the order passed by the Labour Court in M.P.No.24 of 1996. Accordingly, the same is set aside.

The writ petition is, therefore, allowed. No costs.

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Nooty Ramamohana Rao, J

mrk  
8<sup>th</sup> June 2007.